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DOCKET FILE COPY ORIGINAL

May 7, 1996

Via Facsimile and Federal Express

William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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MAY 8 1996

FCC MAIL ROOM

Re: Reply Comments on March 8, 1996 NPRM
on Universal Service Support Issues
CC Docket No. 96-45
Our File No. 8323-6734-3

Dear Mr. Caton:

Enclosed for filing please find an original and four copies of the reply comments of a group of Small Western LECs in response to the Commission's NPRM issued on March 8, 1996, in the captioned docket.

Copies of this document are being mailed to each member of the Federal State Joint Board and its staff as indicated on the service list attached to the NPRM. Copies are also being addressed to each Commissioner and to the International Transcription Service.

Due to the circumstance of our office being located in San Francisco, we are delivering a facsimile copy of this filing today. The original signed copy will be delivered by overnight express for inclusion in the formal file of the proceeding.

Sincerely,

BECK & ACKERMAN


Jeffrey F. Beck

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Enclosures

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EX PARTE OR LATE FILED

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)

Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

REPLY COMMENTS

OF

**EVANS TELEPHONE COMPANY
HUMBOLDT TELEPHONE COMPANY
KERMAN TELEPHONE CO.
OREGON-IDAHO UTILITIES, INC.
PINNACLES TELEPHONE CO.
THE PONDEROSA TELEPHONE CO.
THE SISKIYOU TELEPHONE COMPANY
THE VOLCANO TELEPHONE COMPANY**

ON MARCH 8, 1996, NPRM ON UNIVERSAL SERVICE SUPPORT ISSUES

Dated: May 7, 1996

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Attorneys for Commenting Parties

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	

**REPLY COMMENTS ON MARCH 8, 1996, NPRM
ON UNIVERSAL SERVICE SUPPORT ISSUES**

Evans Telephone Company, Humboldt Telephone Company, Kerman Telephone Co., Oregon-Idaho Utilities, Inc., Pinnacles Telephone Co., The Ponderosa Telephone Co., The Siskiyou Telephone Company, and The Volcano Telephone Company (the Small Western LECs) respectfully file their Reply Comments in response to the Commission's March 8, 1996, Notice Of Proposed Rulemaking (NPRM) in the above-captioned proceeding.

The Small Western LECs are small independent local exchange carriers serving rural areas in the states of California, Nevada, Oregon, and Idaho. The Small Western LECs filed opening comments in this proceeding on April 12, 1996. Due to the number of parties filing opening comments, these reply comments will not address the specific filings. These comments will, instead, focus generally on issues raised in the opening comments which are of most direct concern to small, rural local exchange carriers.

I. UNIVERSAL SERVICE AND COMPETITION.

Some commenting parties advanced the erroneous premise that the passage of the Telecommunications Act of 1996 (the "1996 Act") has enshrined the advancement of "competition" as the sole standard against which all regulatory policies must be judged. This

conclusion is based on an overly simplistic and incorrect interpretation of the 1996 Act.

As the Small Western LECs demonstrated in their opening comments in this docket, the universal service policies contained in the 1996 Act, and particularly the portion of those policies applicable to the defined group of "Rural Telephone Companies,"¹ were added to the Communications Act to protect universal service against possible adverse effects of competition that was expanded by other provisions of the Act.² The obvious purpose of the "rural safeguard" package of universal service provisions for rural LECs was to prevent rural areas served by small local exchange carriers from losing the support necessary to maintain universal service in their high-cost areas as the competition authorized by the 1996 Act was implemented.

Competition alone will not provide adequate infrastructure and service in high-cost rural areas. Competition has been determined by the 1996 Act to be a beneficial overall policy, but it is to be implemented only in connection with the universal service protections set forth in the same legislation.

II. PROXY MODELS.

Various of the commenting parties suggested that the Commission determine the amount of universal service support by utilizing a "proxy model" which would attempt to estimate the cost of providing basic telephone service throughout the entire United States. The actual examination and testing that has been done of such models, however, indicates that they present only an extremely broad-brush set of outputs that bears little or no resemblance to the actual

¹See Section 214(e).

²See Opening Comments of the Small Western LECs at pages 3-4.

costs of providing basic telephone service by a small, rural LEC.

The opening comments of one of the joint sponsors of the Benchmark Cost Model acknowledged the inherent limitations of the model as applied to smaller carriers:

The BCM should only be used to calculate support amounts for price cap LECs. The BCM is sufficiently accurate to target support for large carriers, such as the price cap LECs, who serve wide geographic areas, because any overestimation in some areas will be offset by an underestimation in other areas. However, such a model may not accurately portray the costs of a carrier that serves only a limited or a smaller area, and this could cause financial harm to small carriers. For rate of return carriers, which are typically small carriers that serve rural areas, the Commission should use actual study area costs to develop high-cost assistance.³

Another of the BCM co-sponsors also recommended that the benchmark cost model only be applied to price cap LECs and that "non-price cap would remain under a funding mechanism similar to the present USF."⁴

III. MAINTENANCE OF EXISTING USF AND DEM WEIGHTING PROGRAMS FOR DEFINED "RURAL TELEPHONE COMPANIES."

As noted above, joint BCM sponsors NYNEX and U S West recommended continuation of existing interstate universal service programs for smaller, non-price cap carriers. Many other commenting parties joined in suggesting this approach. This approach avoids the substantial risk

³Opening Comments of NYNEX at pages 10-11. The quoted portion was concluded by the following text as Footnote 16: "Since support for rate-of-return carriers would be based on their own costs, the service area for purposes of Section 254 should be a rate-of-return carrier's study area. This is consistent with Section 214(e)(5), which states that the service area of a rural carrier (as defined in the Act) that is designated as an "eligible carrier" for universal service support should be that carrier's study area. Where high-cost support is determined through a proxy model such as the BCM, the "service area" should be the census block group."

⁴Comments of U S West, Inc. at page 9.

of imposing a new and untested proxy model⁵ on Rural Telephone Companies which currently receive a substantial portion of the revenues they need to provide universal service from the existing separation-based interstate support mechanisms.

The opening comments of these Small Western LECs suggested adaptations of the existing USF formula that could substantially reduce the size of the fund without undue increases in local rates for subscribers of high-cost rural LECs.⁶ The Small Western LECs also support the suggestion that the DEM weighting calculation could be simplified and made more equitable by adopting a "sliding scale" of DEM weighting factors. The DEM weighting system itself, however, remains an important part of the system of universal service support for Rural Telephone Companies. The actual data presented to the Commission on small Rural Telephone Company switching costs fully supports continuation of the DEM weighting program.⁷

IV. COMPETITIVE "NEUTRALITY."

Some parties suggested that the term "competitive neutrality" should be the primary guiding principle for interstate universal service funding. Insofar as universal service funding for Rural Telephone Companies is concerned, that idea is misplaced.

"Competitive neutrality" is a fine slogan, because no party wants to stand for "anti-

⁵The joint BCM sponsors have stated their intention to revise the BCM in July of 1996. Pacific Bell is also developing its own form of proxy cost model. Until these new models can be made publicly available and evaluated in comparison to actual local service costs and conditions, they cannot form the basis of a sound regulatory policy for the critical element of interstate USF support of small, rural LECs.

⁶See opening comments of Small Western LECs at pages 8-11.

⁷See opening comments of Small Western LECs at page 8, Footnote 5.

competitive inequality." The term can be used as a convenient sort of wrapping paper for covering up ideas that will not stand on their own merit.

The principle of competitive neutrality is an appropriate standard for evaluating proposals for distribution of the funding burden of an interstate universal service policies. The term also has some applicability to the process of determining eligibility for receipt of universal service funding in territories served by the RBOCs and other large LECs. These large LECs with their new interLATA services will truly be competitors with MCI, AT&T, and other long distance service providers who have stated their intention to provide facilities-based local exchange service.

With respect to the defined "Rural Telephone Companies," however, the 1996 Act has not made competitive neutrality the standard for qualifying for receipt of universal service funding. Instead, a series of procedures has been adopted to protect rural local exchange carriers from "cream-skimming" competition which could threaten their financial viability, to the detriment both of the companies and their remaining subscribers. The 1996 Act adopts specific policies for Rural Telephone Companies that are clearly defined and which may not reasonably be interpreted as somehow subservient to the notion of "competitive neutrality" among potential recipients of universal service funding.

V. SEPARATE STATE PLANS.

Various commenting parties, including some state commissions, have suggested that the Commission defer to individual state universal service plans as the primary source of universal service policy. This would not be consistent with the 1996 Act. The 1996 Act clearly requires that the Commission establish an adequate interstate universal service mechanism that meets the

statutory requirement. The legislation allows additional and consistent state universal service policies, but it does not authorize this Commission to abdicate its primary policy-making role to individual state commissions.

VI. CONCLUSION.

In their opening comments and in these reply comments, the Small Western LECs demonstrated that the existing systems of interstate universal service support and DEM weighting should be retained as the fundamental devices for meeting the 1996 Act's universal service policy requirements for defined Rural Telephone Companies. The opening comments also suggested appropriate and limited modifications to those policies that would substantially reduce the interstate universal service funding burden while avoiding undue rate increases that would run afoul of 1996 Act's requirement of "comparable rates" in rural areas.

In particular, the Small Western LECs caution the Commission against adopting any new, theoretical, and untried system of proxies, vouchers, or auctions for implementation in areas served by Rural Telephone Companies. These models and methods are still under development

and may be considered "not yet ready for prime time." The existing separations-based universal service funding system for Rural Telephone Companies meets the requirements of the 1996 Act and should be continued for Rural Telephone Companies.

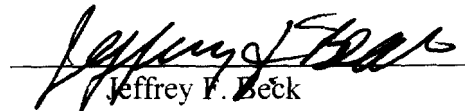
Dated: May 7, 1996

Respectfully submitted,

EVANS TELEPHONE COMPANY
HUMBOLDT TELEPHONE COMPANY
KERMAN TELEPHONE CO.
OREGON-IDAHO UTILITIES, INC.
PINNACLES TELEPHONE CO.
THE PONDEROSA TELEPHONE CO.
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THE VOLCANO TELEPHONE COMPANY

By Their Attorneys

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Jeffrey F. Beck